

CS FOR HOUSE BILL NO. 374(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/2/18

Referred: Rules

Sponsor(s): REPRESENTATIVES WOOL, Parish, Kawasaki, Gara, Kito, Josephson, Spohnholz

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to on-bill financing by a utility for certain energy efficiency and**
2 **conservation improvements."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 42.05 is amended by adding new sections to read:

5 **Article 8A. On-Bill Financing of Energy Efficiency and Conservation Improvements.**

6 **Sec. 42.05.750. On-bill financing of energy efficiency and conservation**
7 **improvements; authorization and eligibility.** (a) A utility may enter into a written
8 on-bill financing agreement with a customer to finance the purchase and installation of
9 a renewable energy system, energy efficiency device, energy storage device, or energy
10 conservation system in a residence or building that is eligible under (b) of this section
11 by assessing a meter conservation charge on the customer's utility bill.

12 (b) A residence or building is eligible for on-bill financing under (a) of this
13 section if, at the time the financing agreement is entered into, the residence or building

14 (1) is occupied or in use; and

1 (2) is not under initial construction.

2 (c) An on-bill financing agreement must clearly state the interest rate to be
3 charged for financing the purchase and installation of the renewable energy system,
4 energy efficiency device, energy storage device, or energy conservation system. The
5 interest shall be set at a rate that is fixed over the term of the agreement.

6 (d) The balance owed on an on-bill financing agreement may be paid in full at
7 any time without penalty.

8 (e) Nothing in this section requires a utility to enter into an on-bill financing
9 agreement with a specific customer or for a specific device or system.

10 **Sec. 42.05.751. Meter conservation charge.** (a) A meter conservation charge
11 assessed under AS 42.05.750(a) may only be used to recover the

12 (1) actual costs incurred by the utility for the purchase, installation,
13 and financing of the renewable energy system, energy efficiency device, energy
14 storage device, or energy conservation system, including the administrative costs of
15 the on-bill financing agreement and the cost of filing notice under AS 42.05.752; and

16 (2) repayment of costs incurred by a third party that has performed a
17 function under AS 42.05.755.

18 (b) A utility may assess a meter conservation charge on

19 (1) the customer who entered into the on-bill financing agreement; or

20 (2) a subsequent purchaser of the residence or building under
21 AS 42.05.753.

22 (c) A meter conservation charge must be shown as a separate line item on a
23 customer's bill.

24 (d) A utility may treat a customer's failure to pay a meter conservation charge
25 as a failure to pay the utility account, and the utility may disconnect the utility service
26 for nonpayment of the meter conservation charge, if the utility complies with
27 AS 42.05.381(c), AS 42.20.040, and any other applicable law. A utility may not
28 remove a renewable energy system, energy efficiency device, energy storage device,
29 or energy conservation system for failure to pay a meter conservation charge or when
30 disconnecting service for failure to pay a meter conservation charge.

31 (e) Money collected by a utility as a meter conservation charge is not revenue

1 subject to state taxes under AS 43.20.

2 (f) The billing and collection of a meter conservation charge does not subject a
3 utility to the laws that regulate financial institutions, escrow depositories, or collection
4 agencies. A utility is not responsible for a lending, underwriting, or credit
5 determination for an on-bill financing agreement.

6 **Sec. 42.05.752. Notice of on-bill financing agreement and meter**
7 **conservation charge.** (a) A utility that enters into an on-bill financing agreement shall
8 file notice of the on-bill financing agreement and related meter conservation charge in
9 the recording district in which the residence or building subject to the agreement is
10 located. Notice under this subsection does not constitute a lien on the property, but is
11 intended to give a purchaser of the residence or building notice that the residence or
12 building is subject to a meter conservation charge. Notice is considered given if it is
13 sufficient to disclose to prospective purchasers the existence of the meter conservation
14 charge, including the balance owed under the on-bill financing agreement and the
15 length of time the meter conservation charge is expected to remain in effect.

16 (b) A utility shall file notice of satisfaction when an on-bill financing
17 agreement is paid in full. Notice of satisfaction shall be filed in the recording district
18 in which the residence or building subject to the agreement is located.

19 **Sec. 42.05.753. Transferability of on-bill financing balances to subsequent**
20 **purchasers.** A utility that enters into an on-bill financing agreement may recover the
21 balance of the costs allowed under the agreement from a subsequent purchaser of the
22 residence or building in which the renewable energy system, energy efficiency device,
23 energy storage device, or energy conservation system was installed if the utility gives
24 notice under AS 42.05.752 that the residence or building is subject to the agreement.

25 **Sec. 42.05.754. Rental property.** A utility may recover the costs under an on-
26 bill financing agreement for a rental property by assessing a meter conservation charge
27 on a utility bill only if the landlord is responsible for the entire utility bill, including
28 the meter conservation charge.

29 **Sec. 42.05.755. Third parties; contracting and liability.** (a) A utility may
30 contract with a third party to perform functions permitted under AS 42.05.750 -
31 42.05.754, including financing the purchase and installation costs for a renewable

1 energy system, energy efficiency device, energy storage device, or energy
 2 conservation system. The third party shall comply with AS 42.05.750 - 42.05.754.

3 (b) If the installation, operation, or maintenance of a renewable energy system,
 4 energy efficiency device, energy storage device, or energy conservation system is
 5 performed by a third party,

6 (1) the utility is not liable for the installation, operation, or
 7 maintenance of the renewable energy system, energy efficiency device, energy storage
 8 device, or energy conservation system;

9 (2) the utility may not provide, nor is there implied, a warranty of
 10 merchantability or fitness of the renewable energy system, energy efficiency device,
 11 energy storage device, or energy conservation system; and

12 (3) no action may be brought against the utility related to the failure of
 13 the renewable energy system, energy efficiency device, energy storage device, or
 14 energy conservation system.

15 (c) When a utility contracts with a third party to perform administrative or
 16 financing functions,

17 (1) the third party is not liable for the installation, operation, or
 18 maintenance of the renewable energy system, energy efficiency device, energy storage
 19 device, or energy conservation system;

20 (2) the third party may not provide, nor is there implied, a warranty of
 21 merchantability or fitness of the renewable energy system, energy efficiency device,
 22 energy storage device, or energy conservation system; and

23 (3) no action may be brought against the third party related to the
 24 failure of the renewable energy system, energy efficiency device, energy storage
 25 device, or energy conservation system.

26 (d) The provisions of (b) and (c) of this section may not be construed to impair
 27 the rights and remedies of a utility customer against any other parties to a transaction
 28 involving the purchase or installation of a renewable energy system, energy efficiency
 29 device, energy storage device, or energy conservation system.

30 **Sec. 42.05.756. Definitions.** In AS 42.05.750 - 42.05.756,

31 (1) "energy conservation system" includes a fuel-switching system; in

1 this paragraph, "fuel-switching" means the replacement of existing fuel consuming
2 equipment using a particular fuel with equipment that uses another fuel that does not
3 increase greenhouse gas emissions and that

4 (A) is more fuel efficient; or

5 (B) results in lower fuel expenses;

6 (2) "meter conservation charge" means a charge placed on a customer's
7 utility bill by a utility to recover costs under an on-bill financing agreement;

8 (3) "on-bill financing agreement" means an agreement entered into
9 under AS 42.05.750.